

AMENDED RFP – JANUARY 15, 2010

RFP Bid No: 10-629T
RFP Issue Date: December 29, 2009
RFP Deadline Date: January 25, 2010
RFP Deadline Time: 11:00 a.m. in Room 104

INVITATION TO BID

The Town of Westport, Connecticut, through the Office of the Assessor, will receive **SEALED BIDS** to provide professional services to the Assessor for the valuation of real estate in conjunction with the 2010 Revaluation. The Town is seeking proposals from commercial appraisers to assist the Assessor and Vision Appraisal Technology, Inc. (Vision) in valuing specific properties and to otherwise perform the services as outlined in the Scope of Professional Services.

Bids should be delivered to the Assessors Office by 11:00 a.m. on January 25, 2010. No proposals will be accepted after this date and time. Please submit one (1) original and two (2) copies of the proposal. Bid numbers must appear on all bids and related correspondence.

The Town of Westport reserves the right to amend or cancel this Request For Proposal (RFP) at any time if it is in the best interest of the Town. The Town of Westport reserves the right to reject any, or any part of, or all proposals for any reason; to waive informalities and technicalities; and to accept the proposal which the Town deems to be in its best interest, whether or not it is the lowest cost proposal.

Paul Friia
Assessor

NOTICE TO BIDDERS

BID NUMBER: 10-629T

Sealed bids for providing professional services to the Assessor for the valuation of real estate in conjunction with the 2010 revaluation in the Town of Westport, will be received by the Town of Westport until 11:00 a.m. on January 25, 2010 in Room 104, Westport Town Hall, 110 Myrtle Avenue, Westport, CT 06880. No bids shall be received after said hour. Proposals must be hand-delivered or mailed to the attention of:

Paul Friia - Assessor
110 Myrtle Avenue – Room 104
Westport, CT 06880

Electronic submittals will not be accepted.

The bid opening will take place in ROOM 104 IMMEDIATELY FOLLOWING THE CLOSING TIME AS SPECIFIED ABOVE. ALL RESPONDENTS ARE INVITED TO ATTEND THE OPENING.

The Town of Westport reserves the right to waive any defects and informality in the bidding or in any bid, to reject any or all bids for any reason whatsoever, whether or not it is the lowest cost proposal, and to accept that bid deemed to be in the best interest of the Town of Westport.

Paul Friia
Assessor

I. GENERAL INFORMATION

A. SCOPE OF PROFESSIONAL SERVICES

This project includes the preparation of oral real property appraisals for fifteen (15) commercial properties and one (1) residential property identified in this RFP. The successful Respondent will also assist Vision with the complete revaluation of all other commercial properties (approximately 500), to include valuations for land, buildings, and improvements within the corporate limits of Westport, Connecticut, as of October 1, 2010.

The following Scope of Professional Services will be performed in accordance with the appraisal specifications set forth in Section V herein.

- Develop a detailed report of income and expenses for the use in determining values of all income producing properties in Westport. The data for this report will be compiled from income and expense reports from commercial owners in Westport and when necessary from comparable commercial markets.
- Perform on site exterior viewings of all commercial properties in an effort to be familiar with each property.
- Review all commercial land sales and develop an analysis for determining land values for all commercial properties in Westport.
- Review local and regional comparable commercial sales data and develop a report that will outline value ranges based on property type.
- Develop a comprehensive analysis indicating all informational sources used in determining capitalization rates based on location and property type in Westport.
- Assist Vision with developing final income models based on rental rates, vacancy rates, expense ratios, and capitalization rates and lease expiration dates.
- Develop values independently and then consult with Vision to develop the final values, exclusive of the properties being valued by oral real property appraisals.
- Review all values with the Assessor and Vision to come to a consensus on final value.

- Participate in informal hearings with property owners and their representatives.
- Assist the Town in appeals from assessments.
- Provide the Assessor with a detailed summary of the income valuation worksheet and sales comparables worksheet with adjustments used in the valuation of all commercial properties.
- Provide a list of commercial / industrial sales for various classes of property from comparable communities.
- Analyze and determine value ranges for all relevant classifications of commercial properties.
- Prepare oral real property appraisals under Standards Rule 2-4. Appraiser will make available written substantive matters and analysis if requested by the Assessor. The following are the 15 commercial properties and 1 residential property to be appraised in this manner:
 1. 302 Post Road East – (Service Station)
 2. 1 Gorham Island – (Premium Office Building – 47,884 sf)
 3. 136 Main Street – (Premium Retail Building – 21,962 sf)
 4. 60 Nyala Farms Road – (Office Complex – 356,278 sf)
 5. Saugatuck Harbor Yacht Club – (157 Boat slips)
 6. 1790 Post Road East – (Stop & Shop Plaza – 85,050 sf)
 7. 777 Post Road East – (Toyota Auto Dealership – 16,298 sf)
 8. 33 Post Road East – (Bertucci's Restaurant – 9,673 sf)
 9. 1 Burr Road – (120 Bed Nursing Home)
 10. 25 Kings Highway South – (Birchwood Country Club – 18 Hole Golf Course)
 11. 315 Post Road West – (Office Building – 26,936 sf)
 12. 220 Post Road West – (Retail Building – 23,095 sf)
 13. 518 Riverside Avenue – (Office Complex – 16,436 sf in two buildings)
 14. 1076 Post Road East – (Retail Plaza – 51,236 sf in two buildings)
 15. 175 Post Road West – (Mixed Use Retail/Office– 20,424 sf in (3) buildings)
 16. 167 Cross Highway – (New 30,000 SF Approx. Single Family Home)

The values to be determined shall be the present true and actual value of each parcel of real property and the buildings and improvements thereon as of October 1, 2010. Such values shall be based upon recognized methods of appraisal and shall conform to Uniform Standards of Professional Appraisal Practices, as required by the Connecticut

General Statutes for the licensing and certification of all individuals involved in the appraisal of real estate.

The revaluation of real property shall exceed the standards as outlined in the Connecticut Performance Based Revaluation Standards and Certification of Revaluation (Connecticut General Statutes Sec. 12-621-1 to 12-621-7), shall be acceptable to the Assessor and shall conform to the procedures and technical requirements of the Assessor.

On a weekly basis, the successful Respondent shall meet with the Assessor to discuss the progress and various other details of the revaluation.

The successful Respondent may also be required, if requested by the Assessor, to attend no more than three (3) public meetings to present results and address inquiries regarding the revaluation and the restricted appraisals.

II. BID PROCESS

A. PROPOSAL SUBMITTALS

1. Preparation of Proposal

Respondent Proposal Form Agreement – This form is found in Appendix A and should be completed in its entirety and submitted with the proposal.

2. Bid Bond

A Bid Bond or certified check in the amount of 10% of the highest bid amount must be submitted by the Respondent with his bid as a guarantee that if awarded the Contract, he will execute the Contract as presented to him and furnish a Performance Bond satisfactory to the Finance Director of the Town within two weeks after the receipt of the notice of award. Should Respondent fail to comply with the provisions of this paragraph, the parties agree that the resulting damages to the Town are not readily ascertainable, that there will be uncertainty and delay for the Town in finding another acceptable Respondent, and resulting expense and inconvenience.

Therefore, to avoid controversy, the parties agree that the Town may call the Bid Bond without objection by Respondent or retain the funds paid to the Town by Respondent as reasonable liquidated damages for Respondent's failure to comply with the provisions of this paragraph.

3. Taxes

Since the Town of Westport is exempt from all taxes, no charges for taxes of any kind should be included in your proposal or on any invoices to the Town.

4. Contract Documents; Exceptions

The terms of this RFP will be incorporated into the Contract awarded to the successful Respondent. (See Appendix B) Therefore, any exceptions to the terms of the RFP must be noted in the proposal. Attachments to the proposal must be in addition to, not in lieu of, the provisions of the RFP. Any conflict between provision(s) of the Contract, the RFP, the proposal or other attachments or exhibits will be resolved in favor of the provision which provides for a higher standard of obligation or service by the successful Respondent and a lower measure of liability for the Town.

5. Withdrawal of Proposal

Any bid may be withdrawn prior to the scheduled time for receiving bids, or any authorized postponement thereof. Any withdrawal shall be effective only if delivered to the Assessor in writing prior to the opening time set forth herein. Any bids received after the date and time specified will NOT be considered. No Respondent may withdraw a bid within 90 days after the actual opening thereof.

6. Inquiries

Any questions regarding the RFP's content and/or intentions will be addressed and clarifications will be made. The Town of Westport requests that all questions and/or clarifications be received in writing or emailed to the Assessor no later than 4:30 P.M. on January 18, 2010. Please address your letter or email to the following address:

Paul Friia
Assessor
Town of Westport
110 Myrtle Avenue
Westport, Connecticut, 06880
203-341-1135
Email address: pfriia@westportct.gov

Any responses to these questions shall be posted on the Town's website, www.westportct.gov, and sent to any Respondent who has provided an e-mail address for this purpose.

Additionally, after proposals are received, the Town reserves the right to communicate with any or all of the Respondents to clarify the provisions of this RFP. The Town further reserves the right to request additional information at any time after proposals are opened.

7. Reservations

The Town of Westport reserves the right, in its sole discretion, to reject any or all proposals or parts of proposals for any reason whatsoever; to waive informalities in said proposals; or to accept any proposal or part thereof deemed to be in the best interests of the Town of Westport, whether or not it is the lowest cost proposal.

The Town of Westport reserves its right to cancel, revoke, rescind or nullify any bid award, without penalty, if the State of Connecticut passes any act or amends any of the statutes or regulations, affecting the timing, method or requirements of the revaluation process.

The Town reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal was selected. Submission of the proposal indicates acceptance by the firm of the conditions contained in this RFP, unless clearly and specifically noted in the proposal submitted and confirmed in the Contract between the Town and the Respondent selected.

B. PROPOSAL EVALUATION CRITERIA

The criteria upon which proposals will be evaluated include, but are not limited to, the following:

1. Directness of response to the specifications.
2. Cost of the project will be considered, but will not be the sole basis for evaluation. Respondents must demonstrate that they are qualified and responsible as well.
3. Prior experience.
4. Nature and size of Respondent's organization and familiarity with the area.

5. Quality of similar projects Respondent has completed in the past.

C. NOTICE OF AWARD

A Notice of Award will be issued to advise the successful Respondent of the intended award of the Contract, and of Respondent's obligations to the Town in the way of bid documents which Respondent has to furnish, including the Performance Bond and the required Insurance Certificate (as covered in Section III). Until the successful Respondent meets these obligations, the Respondent is forbidden to proceed with the Contract.

All of the conditions of this RFP and the Respondent's responses are subject to review and approval by the Town Attorney.

III. GENERAL CONDITIONS

A. BONDING

The successful Respondent (hereinafter the "Appraiser") shall furnish to the Town a Performance Bond in the amount of the Contract price, which bond shall be issued by a bonding company authorized to do such business in the State of Connecticut with a minimum A.M. Best Company rating of A+ or specifically approved by the Town of Westport. Said bond shall be in a form satisfactory to and approved by the Town Attorney and shall be delivered to the Town for the Attorney's review prior to the signing of the Contract.

It is understood and agreed that upon the satisfactory completion of the revaluation, the Performance Bond shall be reduced to 10% of the value of the Contract. This is for the purpose of assuring that the Appraiser will assist and cooperate in the defense of all appeals taken by taxpayers. This reduced amount of the bond shall become effective after the revaluation has been completed and has been approved by the Assessor and after the completion of the duties of the Board of Assessment Appeals. The reduced amount of the bond shall remain effective until a final resolution in the courts of any appeal taken from the actions of the Board of Assessment Appeals on the list of October 1, 2010.

The Appraiser to whom the Contract is awarded must file the required Performance Bond within fourteen (14) days of the date of the Notice of Award. Failure or neglect to do so may be considered by the Town as proof that the Appraiser is unable to fulfill the Contract.

B. INSURANCE

The Appraiser shall procure, at its own expense, and maintain for the duration of the Contract in a company with an A.M. Best rating of A-(VII) or better, insurance against claims for injuries to persons or damages to property which may arise from, or be in connection with the performance of the work to be performed hereunder by the Appraiser, its representatives, or employees.

1. Workers Compensation insurance required by law with employers liability limits for at least the amounts of liability for bodily injury by accident of \$100,000 each accident and bodily injury by disease of \$100,000 and a policy limit of \$500,000.
2. Commercial General Liability Insurance policy with an edition date of 1986 or later including products and completed operations. Limits should be at least: Bodily injury & property damage with an occurrence limit of \$1,000,000: Personal & advertising injury limit of \$1,000,000 per occurrence: General aggregate limit of \$2,000,000 (other than products and completed operations): Products and completed operations aggregate limit of \$2,000,000.
 - a. The policy shall name the Town as an additional insured.
 - b. Such coverage will be provided on an occurrence basis and will be primary and shall not contribute in any way to any insurance or self insured retention carried by the Town.
 - c. Such coverage shall contain a broad form contractual liability endorsement or wording within the policy form.
 - d. A per project aggregate limit of liability endorsement shall apply for any construction contract.
 - e. Deductible and self-insured retentions shall be declared and are subject to the approval of the Town.
3. Commercial Automobile Insurance for any owned autos (symbol 1 or equivalent) in the amount of \$1,000,000 each accident covering bodily injury and property damage on a combined single limit basis. Such coverage shall also include hired and non-owned automobile coverage.
4. Umbrella Liability Insurance policy in excess (without restriction or limitation) of those limits described in items (A) through (C). Such policy shall contain limits of

liability in the amount of \$1,000,000 each occurrence and \$1,000,000 in the aggregate.

5. Errors & Omissions Insurance for liability resulting from the negligent performance of professional duties or operations. Such policy shall contain limits of liability in the amount of \$1,000,000 each occurrence and \$1,000,000 in the aggregate.

As to the insurance required, the insurer(s) and/or their authorized agents shall provide the Town with certificates of insurance prior to execution of the Contract by the Town, describing the coverage and providing that the insurer shall give the Town written notice at least sixty (60) days in advance of any termination, expiration or changes in coverage.

C. COMPLETION DATES AND TIME SCHEDULE

The completed appraisals, upon approval of the Assessor, will serve as the basis for assessments effective on the Grand List of October 1, 2010.

TIME IS OF THE ESSENCE. The Appraiser shall commence work in a diligent fashion so as to ensure completion within the schedule of completion dates hereinafter set forth.

The following phases of the project must be completed in accordance with the following schedule. Failure to substantially complete the stated performance by the stated dates shall constitute a material breach of the Contract.

August 30, 2010: Complete and deliver to the Assessor a study of market rents, expenses and capitalization factors.

October 4, 2010: Complete and deliver to the Assessor all real property valuations.

October 25, 2010: Assessor completes review and final adjustments are made for commercial real property.

November 22, 2010 thru December 13, 2010: Informal hearings are to be conducted and completed.

D. PAYMENT SCHEDULE

At the end of each thirty (30) day period throughout the term of the Contract, the Appraiser is to submit an invoice to the Assessor within which the Appraiser will certify

and itemize the extent and nature of the work performed during said thirty (30) day period. Upon determination by the Assessor that the work during such period is accurate, payment will then be made within thirty (30) days of the receipt by the Town's Finance Department of the approved invoice.

E. PENALTIES

1. Delay in Completion

The failure of the Appraiser to complete all work as of the completion dates specified below in a manner acceptable to the Assessor, shall be cause for a penalty payment by the Appraiser of five hundred dollars (\$500) per day beyond the following completion dates.

- a. October 4, 2010: the Appraiser shall have completed and delivered to the Assessor all real property valuations.
- b. December 23, 2010: the Appraiser shall have completed all work under the Contract.

2. Penalty Application

This penalty, if applied, shall be deducted from the Contract price and be in addition to such other rights as the Town may have pursuant to the Contract. The Town shall have the right to withhold from any periodic payment under the Contract an amount sufficient to satisfy, wholly or partially, this damages clause. Delays occasioned by war, strike, explosion, acts of God, or an order of the court or other public authority are excepted.

IV. INFORMAL PUBLIC HEARINGS

Following completion of all work and the review thereof by the Assessor, but not later than November 22, 2010, the Appraiser and Vision and/or the Assessor shall commence public hearings so that owners of property or their legal representative may appear at specified times to discuss the valuations of their property. The Appraiser shall explain the manner and methods of arriving at value. Informal public hearings, at the Assessor's discretion, may be held on weeknights and Saturdays. The hearings shall continue no later than December 13, 2010.

The Appraiser, with the approval of the Assessor, shall schedule a sufficient number of hearings and provide qualified and knowledgeable personnel sufficient to handle said hearings expeditiously and fairly. The Appraiser shall plan and allocate for each such hearing a sufficient amount of time to fully respond to taxpayers' questions. Any information offered by the taxpayer or their legal representative shall be given consideration, and an adjustment shall be made where warranted.

The Appraiser shall keep a record, on a form approved by the Assessor, of all owners that requested a hearing and the result of that hearing. A copy of those records shall be given to the Assessor.

All work to be carried out in this project and all forms, materials, and supplies utilized in this project shall be subject to the direct supervision and approval of the Assessor.

V. APPRAISAL SPECIFICATIONS

A. INCOME APPROACH

Income and expense data gathered by the Town shall be utilized by the Appraiser and Vision for income producing and, where appropriate, owner-occupied properties. Any income and expense data with accompanying summary reports and rent schedules shall become the property of the Town. From these reports and other data sources, such as field investigations and interviews, the Appraiser will establish market or economic rent and expenses for income producing properties. The Appraiser shall also develop capitalization rates by investigating sales and income data. Rates shall be established for the various classes of property and checked with bankers, investors and appraisers to ensure their accuracy. The Appraiser shall perform the income approach using considering both the actual and economic income and expenses.

B. LAND VALUATION

Commercial land values will be derived from market sales occurring from October 1, 2008 to October 1, 2010, land residual analysis, and/or the extraction method.

The Appraiser will develop a commercial land valuation schedule for all types of commercial land. Market derived adjustments must be developed for all factors influencing land value including size, location, zoning, wetland conditions, topography, utilities, utility easements and power lines, non-conforming uses, vacancy, form of ownership, and zoning variances. The Appraiser must accompany Vision and visually

inspect the sales of both improved and unimproved parcels to determine the affect of these conditions will have on the overall value of each parcel.

For areas where there are insufficient land sales, land value must be extracted from the sale price of improved properties, by deducting the depreciated cost of the improvement from the total sale price.

The Appraiser shall prepare a written report summarizing its findings with respect to the values of the various categories of land, together with supporting statistical documentation in the form of comparable sales within an acceptable time period.

The land values will be set by the Appraiser and Vision and approved by the Assessor. In the event any disagreement between the Assessor, the Appraiser and Vision, the Assessor shall have the final decision confirming all land values and methods.

C. SALES COMPARISON APPROACH

The Appraiser and Assessor shall validate all vacant land, commercial/industrial sales for the period of October 1, 2008 through October 1, 2010.

The Appraiser must consider the Sales Comparison Approach as the supporting approach to value when sufficient sales are available. Where comparable sales are not available from within the Town of Westport, the Appraiser should collect and verify sales information for income producing properties, vacant land and unique residential properties from comparable municipalities. This sales information will be used to support and defend the valuation of properties for which insufficient sales information within the Town of Westport exists.

Appendix

Appendix A - Respondent Proposal Form Agreement

PROJECT: REQUEST TO PROVIDE PROFESSIONAL SERVICES TO THE ASSESSOR FOR THE VALUATION OF REAL ESTATE IN CONJUNCTION WITH THE 2010 REVALUATION EFFECTIVE OCTOBER 1, 2010.

The undersigned Respondent affirms and declares the following:

1. That Respondent has read the Request for Proposal (“RFP”) and fully understands its intent and content and that this Proposal is executed by said Respondent with full knowledge and acceptance of the terms and conditions of the RFP.
2. That should this proposal be accepted in writing by the Assessor of the Town of Westport, Connecticut, said Respondent will furnish the services for which this Proposal is submitted at the price bid and in compliance with the provisions of the Contract.
3. That all exceptions to the RFP enclosed herewith shall be delineated in a separate Addendum clearly marked as, “Addendum to Westport’s Request for Proposal.” Each “Addendum” shall itemize by each change or exception the additional cost associated with each change or exception.
4. The Respondent has submitted with its proposal a bid bond or certified check in the amount of ten percent of the highest bid amount.
5. The Respondent shall furnish to the Town a Performance Bond in the amount of the Contract price, which bond shall be issued by a bonding company authorized to do such business in the State of Connecticut with a minimum A.M. Best Company rating of A+ or specifically approved by the Town of Westport. Said bond shall be in a form satisfactory to and approved by the Town Attorney. The performance bond shall be delivered to the Town for the attorney’s review prior to the signing of the Contract within 14 days of the Notice of Award.
6. That the Respondent or its representative has visited the Town of Westport, is familiar with the geography, general character of housing and the commercial and

industrial areas; has examined the quality and condition of the Assessor' records; and has met with the Assessor to make itself knowledgeable of those matters and conditions in the Town of Westport which would influence this bid proposal.

7. That all items, documents and information required to accompany this proposal are enclosed herewith.

8. That the Respondent proposes to furnish the services and materials required to complete the Revaluation in accordance with the Contract for the total dollar amount of:

Contract Bid \$ _____
Amount Written dollar amount

Proposed prices are valid for 90 days.

9. That the Respondent understands and accepts that the Town reserves the right to reject any, or any part of, or all of the proposal for any reason; to waive informalities and technicalities; and to accept the proposal which the Town deems to be in its best interest, whether or not it is the lowest cost proposal.

FIRM NAME OF
RESPONDENT: _____

BY:
SIGNATURE: _____

TYPE NAME: _____

TITLE: _____

State of _____ ss: _____ County of _____

Subscribed and sworn to before me this _____ day of _____, 2009.

Notary Public
My Commission Expires: _____

Appendix B - Respondent and Town Agreement

This Agreement, made this the _____ day of _____, 2010, by and between the Town of Westport, a municipal corporation, located in the County of Fairfield, State of Connecticut, hereinafter termed the “Town”, acting by and through its First Selectman, having been duly authorized and _____ hereinafter termed the “Appraiser”.

WITNESSETH THAT:

WHEREAS, the Town, through its Assessor, plans to undertake a complete revaluation of all real property located within the corporate limits of the Town for the October 1, 2010 Grand List; and

WHEREAS, the Appraiser is to undertake the preparation of restricted appraisals for the one (1) residential property and the fifteen (15) commercial properties specifically identified herein and to otherwise assist Vision Appraisal Technology, Inc. in conducting the valuation of real estate in conjunction with the 2010 revaluation in the Town of Westport.

NOW, THEREFORE, the Town and the Appraiser, for the consideration and under the conditions hereinafter set forth, hereby agree as follows:

1. CONTRACT DOCUMENTS

The Agreement shall consist of this Agreement and the terms and conditions of the Request for Proposal Bid number 10-629T, dated _____, 2010 (“RFP”), a copy of which is attached hereto, including the Proposal Form Agreement and any Addendums thereto, all of which are made a part of this Agreement with the same effect as though fully set forth herein.

2. EMPLOYMENT OF APPRAISER/SCOPE OF WORK

The Town hereby engages the Appraiser and the Appraiser hereby agrees to provide 16 restricted appraisals on the properties identified under Scope of Professional Services and to assist Vision Appraisal Technology, Inc. with the revaluation of all remaining commercial real properties within the corporate limits of the Town and to perform all other services and furnish all the records, materials, forms, software and supplies required by and in complete accordance with the terms of this Agreement. All such labor, records, materials, forms and supplies to comply with the

requirements of the pertinent Connecticut General Statutes and Special Acts, pertinent rulings of the Secretary of Office of Policy and Management, pertinent ordinances and agreements of the Town, and pertinent decisions of the courts.

3. COMMENCEMENT AND COMPLETION DATES

The Appraiser agrees to commence the work no later than 14 days after the signing of this Agreement (or such time as is otherwise agreed to by the Assessor) and shall work in strict compliance with the Completion Date and Time Schedule set forth in Section III of the RFP. The parties acknowledge that TIME IS OF THE ESSENCE in connection with the performance of the work.

4. COMPENSATION/PAYMENT SCHEDULE

The Town agrees to pay the Appraiser the total sum of \$ _____ as compensation for the Appraiser's services to be performed. The Town shall pay such compensation in accordance with the payment schedule set forth in paragraph D of Section III of the RFP.

5. TRANSFER, ASSIGNMENT AND SUBLETTING of AGREEMENT

The Appraiser agrees that it shall not transfer, assign or sublet this Agreement, or any part or interest herein, without first receiving prior written approval from the Town and the bonding company, and further agrees that any such assignment or transfer without prior written approval by the Town and bonding company be null and void and shall not release the Appraiser from any responsibility or liability as set forth in this Agreement.

6. INDEPENDENT CONTRACTOR

It is expressly agreed and understood that Appraiser shall at all times act strictly and exclusively as an independent contractor and shall not be considered under the provisions of this Agreement or otherwise as having any employee status with the Town, or as being entitled to participate in or receive any benefit under any benefit plan or program made available by the Town to its employees. Appraiser hereby irrevocably waives the right to accrue benefits under any such plan or program even in the event Appraiser is subsequently reclassified by any court or governmental authority as eligible for such participation. Appraiser is not granted any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of the Town, or to bind the Town to any agreement, contract or arrangement of any nature, except as expressly provided herein. Appraiser shall

be solely and entirely responsible for Appraiser's acts during the performance of this Agreement.

7. INDEMNIFICATION

Appraiser agrees to indemnify, hold harmless and defend the Town at Appraiser's expense from and against any and all liability for loss, damage or expense (including, without limitation, reasonable attorneys' fees, court costs and expert witness fees) which it may incur or for which it may be held liable by reason of injury, including death, to any person or damage to any property arising out of any negligent or willful actions by Appraiser in connection with the operations to be performed under this Agreement, or costs and expenses for, or on account of, any patented or copyrighted equipment, materials, articles or processes used in the performance of this Agreement.

8. REPRESENTATIONS

The Appraiser represents, warrants and covenants to the Town as follows:

A. Organization, Powers and Qualifications. The Appraiser is a corporation duly organized, validly existing and in good standing under the laws of the State of Connecticut.

B. Experience in Revaluation and Appraisal of Real Property. The Appraiser is experienced and qualified to carry on the work of appraising real property, including but not limited to residential and commercial real property, in municipalities similar to Westport and a substantial portion of its business activities have been related to such work. The Appraiser is familiar with recognized Connecticut appraisal practices and with the standards required for determining ad valorem values of all forms of real property, including but not limited to residential and commercial real property for assessment purposes.

C. Due Execution. This Agreement and the other agreements and instruments to be executed and delivered by the Appraiser pursuant hereto will have been duly executed and delivered by the Appraiser and upon such execution will constitute valid and binding obligations of the Appraiser enforceable in accordance with their respective terms, except as the enforceability hereof or thereof may be limited by bankruptcy, insolvency or similar laws affecting creditors' rights generally or by general principles of equity (whether considered in a suit at law or in equity).

D. Conflict with Other Agreements, Approvals. The execution, delivery, and performance of this Agreement by the Appraiser does not (a) violate any applicable provision of any law, statute, rule or regulation or any judgment, order, injunction, decree or ruling of any court or governmental authority applicable to the Appraiser (b) violate or conflict with, or permit the cancellation of, or constitute a default under, any contract to which Appraiser is a party, (c) violate or conflict with any provision of the Certificate of Incorporation or Bylaws of the Appraiser, or (d) require any consent, approval or authorization of, or notice to, or declaration, filing or registration with, any governmental authority or other third party.

E. Compliance with Law. The Appraiser and its use and occupancy of its assets and properties wherever located is and has been in compliance in all material respects with all applicable laws, regulations, judgments, orders and other requirements of all courts, administrative agencies, or governmental authorities, foreign or domestic, having jurisdiction over the Appraiser or its properties and has not received any claim or notice of violation with respect thereto. Without limiting the generality of the foregoing, neither the Appraiser, nor any director, officer, employee or agent of, nor any consultant to the Appraiser, nor any other person authorized to act on behalf of Appraiser, has unlawfully offered, paid, or agreed to pay, directly or indirectly, any money or anything of value to or for the benefit of any individual who is or was an official or employee or candidate for office of the government of any country or any political subdivision, agency or instrumentality thereof or any employee or agent of any customer or supplier of the Appraiser.

F. Licenses. The Appraiser owns or possesses all certifications, licenses, certificates, permits, consents, approvals, waivers, and all authorizations, governmental or otherwise, required for the conduct of its business as now conducted and proposed to be conducted (the “Licenses”). All such Licenses are valid and in effect. The Appraiser is not in violation of any License, nor has it received any notice of any claim, violation, proceeding or threatened proceeding relating to any such License or claimed lack of any necessary License. Neither the execution nor delivery of this Agreement nor the consummation of the transactions contemplated hereby will have a materially adverse effect upon or with respect to any License.

G. Tax and Other Returns and Reports. (a) All federal, state, local and foreign tax returns and reports (including all income tax, unemployment compensation, social security, payroll, sales and use, excise, privilege, property, ad valorem, franchise, license, school and any other tax under laws of the United States or any foreign

country or any state or municipal or political subdivision thereof required to be filed by Appraiser (the “Tax Returns”), have been properly and timely filed with the appropriate governmental agencies in all jurisdictions in which such returns and reports are required to be filed, and all such returns and reports properly reflect the taxes of Appraiser for the periods covered thereby

H. Litigation. (a) No claim, action, suit, arbitration, investigation or other proceeding is pending, or, to Appraiser’s best knowledge, threatened, against it before any court, governmental agency, authority or commission, arbitrator or “impartial mediator” and there are no facts or events or occurrences by reason of which any such action or proceeding may be brought; (b) there are no judgments, consent decrees, injunctions, or any other judicial or administrative mandates outstanding against Appraiser which materially and adversely affect its ability to perform its obligations under this Agreement and (c) no litigation has been brought or, to Appraiser’s best knowledge, threatened respecting the transactions contemplated by this Agreement.

I. Disclosure. No representation or warranty made by Appraiser in this Agreement or in the response to the RFP contains any untrue statement of material fact or omits any material fact necessary to make the statements contained herein or therein not misleading.

The TOWN represents, warrants and covenants to Appraiser as follows:

A. Organization and Good Standing. The Town is a municipal corporation duly organized, validly existing and in good standing under the laws of the State of Connecticut; it has all requisite corporate power and authority to own its properties and assets and carry on its business as now conducted.

B. Authority. The Town has full power and authority to execute and deliver this Agreement and to carry out the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary elected bodies of the Town. This Agreement has been duly executed and delivered by the Town and constitutes a valid and binding obligation of the Town enforceable in accordance with its terms, except to the extent that such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to creditors’ rights.

C. Conflict with Other Agreements, Approvals. The execution, delivery, and performance of this Agreement by the Town does not (a) violate any applicable

provisions of any law, statute, rule or regulation or any judgment, order, injunction, decree or ruling of any court or governmental authority applicable to the Town or (b) violate or conflict with, or permit the cancellation of, or constitute a default under, any contract to which the Town of Westport is a party or by which it or any of its property is bound.

9. FEDERAL, STATE AND LOCAL LAWS

All applicable Federal, State and local laws, rules and regulations of all authorities having jurisdiction over the revaluation project shall apply to this Agreement throughout and are deemed to be included herein. Appraiser shall also comply with all applicable local, State and Federal anti-discrimination laws, rules and regulations and requirements thereof.

10. DEFAULT; TERMINATION

A. If the Appraiser does not pay its debts as they shall become due, or if a receiver shall be appointed for its business or its assets and not voided within thirty (30) days, or if the Appraiser shall make an assignment for the benefit of creditors, or otherwise, or if interest herein shall be sold under execution or if it shall be adjudicated insolvent or bankrupt then and forthwith thereafter, the Town shall have the right, at its option and without prejudice to its right, hereunder to terminate this Agreement and withhold any payments due.

B. If any material representation of the Appraiser shall be untrue; if the Appraiser fails to perform its obligations under this Agreement in accordance with its terms; or if the Town reasonably doubts that the Appraiser's work is progressing in such a manner as to ensure compliance with the Completion Dates and Time Schedule set forth in Section IV, the Town shall have the right, in addition to all other remedies it may have, upon seven (7) days written notice to the Appraiser and its surety bonding company, to declare the Agreement in default and thereby terminated, and to award the project or the remaining work thereof, to another appraiser. If this termination clause is invoked, the Appraiser's agents and employees shall, at the Assessor's direction, vacate in an orderly fashion the office space, if any, provided by the Town, leaving behind all records, properly filed and indexed, as well as other property of the Town. Any funds held by the Town under this Agreement shall become the property of the Town to the extent necessary to reimburse the Town for its costs in obtaining another appraiser and supervising the transition. Termination of the Agreement and retention of funds by the Town shall not preclude the Town from bringing an action against the

Appraiser for damages or exercising any other legal, equitable, or contractual rights the Town may possess in the event of the Appraiser's failure to perform.

C. In the event the Representative Town Meeting ceases to provide funds for the continuation of payments hereunder, this Agreement shall terminate within thirty (30) days of written notice to the Appraiser without any further obligation on the part of the Town. In the event of such termination, the Appraiser shall be compensated for work performed to the date of such termination.

11. MISCELLANEOUS

A. Notices. Any notices or demands required or permitted by law, or by any provision of this Agreement shall be in writing, and may be delivered personally, by reputable private delivery service, or by the United States mail, registered or certified, return receipt requested and postage prepaid. If to Appraiser, notices should be addressed to _____ Attn: _____. If to the Town notices should be addressed to Town of Westport, Attn: First Selectman, 110 Myrtle Avenue, Westport, CT 06880 with a copy to the Town Attorney, 110 Myrtle Avenue, Westport, CT 06880. Notices shall be effective when delivery is made during regular business hours.

B. Governing Law. This Agreement shall be interpreted and enforced according to the laws of the State of Connecticut.

C. Successors; Third Party Beneficiaries. This Agreement shall be binding upon and inure solely to the benefit of the parties and their heirs, successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever.

D. Waiver. No waiver of any provision of this Agreement shall be effective unless made in writing and signed by the waiving party. No waiver of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision hereof.

E. Entire Agreement; Amendment. This Agreement, including Exhibits _____ attached, contain the complete and exclusive statement of the agreements and understandings of the parties, and supersede all prior agreements, understandings, communications or proposals, oral or written, relating to the subject matter of this Agreement. This Agreement may not be amended or modified except by written instrument duly executed by the parties.

F. Severability. If any provision of this Agreement or the application thereof becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement shall continue in full force and effect, and the parties shall use best efforts to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision.

G. Interpretation. The terms and provisions of this Agreement shall be construed fairly in accordance with their plain meaning, regardless of which party was responsible for the drafting of such terms and provisions.

H. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which when taken together shall constitute the same instrument.

IN WITNESS WHEREOF, THE TOWN OF WESTPORT and
_____ have executed this Agreement on the date first written
above.

IN THE PRESENCE OF:

Town OF WESTPORT, CT

By: _____
Gordon F. Joseloff, First Selectman

(Signature) _____
_____, Appraiser

Appendix C - Appraiser Non-Collusion Agreement

The Respondent submitting this proposal for the professional services certifies that:

1. The bid has been arrived by the Respondent independently and has been submitted without collusion with and without any agreement, understanding or planned common course of action with any other vendor of materials, supplies, equipment or services described in the Request for Proposal, designed to limit independent bidding or competition and
2. The contents of the bid have not been communicated by the Respondent or its employees or agents to any person not an employee or agent of the respondent or its surety on any bond furnished with the bid and will not be communicated to any such person prior to the official opening of the bid.

The undersigned Respondent further certifies that this statement is executed for the purpose of inducing the Town of Westport to consider the bid and make an award in accordance therewith.

FIRM NAME OF
RESPONDENT: _____

BY:
SIGNATURE: _____

TYPE NAME: _____

TITLE: _____

DATE: _____